

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #12	CCRB Case #: 201800538	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/17/2018 12:50 AM	Location of Incident: § 87(2)(b) 43rd Precinct Stationhouse	18 Mo. SOL 7/17/2019	Precinct: 43		
Date/Time CV Reported Mon, 01/22/2018 12:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/22/2018 12:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Tomor Berisha	10417	953678	043 PCT
2. Officers			043 PCT
3. POM John Echevarria	30837	953836	043 PCT
4. LT Jeffrey Heilig	00000	941886	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Bory Echanique	17967	958540	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Jeffrey Heilig	Abuse: In front of § 87(2)(b) Lieutenant Jeffrey Heilig stopped § 87(2)(b)	§ 87(2)(b)
B.POM Tomor Berisha	Abuse: In front of § 87(2)(b) Police Officer Tomor Berisha frisked § 87(2)(b)	§ 87(2)(b)
C.POM John Echevarria	Abuse: In front of § 87(2)(b) Police Officer John Echevarria searched § 87(2)(b)	§ 87(2)(b)
D.POM John Echevarria	Force: In front of § 87(2)(b) Police Officer John Echevarria used a chokehold against § 87(2)(b)	§ 87(2)(b)
E.POM John Echevarria	Force: In front of § 87(2)(b) Police Officer John Echevarria restricted § 87(2)(b) breathing	§ 87(2)(b)
F.LT Jeffrey Heilig	Force: In front of § 87(2)(b) Lieutenant Jeffrey Heilig utilized a Taser against § 87(2)(b)	§ 87(2)(b)
G. Officers	Force: In front of § 87(2)(b) officers used physical force against § 87(2)(b)	§ 87(2)(b)
H. Officers	Force: In front of § 87(2)(b) officers struck § 87(2)(b) with ASPs.	§ 87(2)(b)
I.LT Jeffrey Heilig	Force: In front of § 87(2)(b) Lieutenant Jeffrey Heilig utilized a Taser against § 87(2)(b)	§ 87(2)(b)
J.LT Jeffrey Heilig	Abuse: At the 43rd Precinct stationhouse, Lieutenant Jeffrey Heilig strip-searched § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 22, 2018, § 87(2)(b) filed this complaint via telephone.

On January 17, 2018, at approximately 12:50 a.m., § 87(2)(b) a 19-year-old black male, was approached by Police Officer Tomor Berisha, of the 43rd Precinct, in front of § 87(2)(b) in the Bronx. Shortly after PO Berisha approached § 87(2)(b) he positioned himself to the right of § 87(2)(b) while Lieutenant Jeffery Heilig, Police Officer Bory Echanique, and Police Officer John Echevarria, all also of the 43rd Precinct, stood in front of § 87(2)(b) to his left, and behind him respectively (**Allegations A: Abuse of Authority – Stop,** § 87(2)(g) PO Berisha observed a heavy object weighing down § 87(2)(b) right jacket pocket, and upon § 87(2)(b) allegedly refusing to take his hand out of his pocket, PO Berisha asked him what was in the pocket and frisked the pocket (**Allegation B: Abuse of Authority – Frisk,** § 87(2)(g) PO Echevarria, who was standing behind § 87(2)(b) searched his pockets from behind (**Allegation C: Abuse of Authority – Search of person,** § 87(2)(g)

After the search, PO Echevarria allegedly placed his arm around § 87(2)(b) neck from behind, inhibiting his ability to breathe (**Allegation D: Force – Chokehold,** § 87(2)(g) (**Allegation E: Force – Restricted breathing,** § 87(2)(g) At which time, Lieutenant Heilig Tasered § 87(2)(b) in the back (**Allegation F: Force – Nonlethal restraining device,** § 87(2)(g) which caused him to fall on the ground. While on the ground, officers allegedly kicked and struck § 87(2)(b) with an ASP (**Allegation G: Force – Physical force,** § 87(2)(g) § 87(2)(g) (**Allegation H: Force – Nightstick as club,** § 87(2)(g) Additionally, § 87(2)(b) was Tasered once more while on the ground (**Allegation I: Force – Nonlethal restraining device,** § 87(2)(g) § 87(2)(b) was then picked up off the ground and transported to the 43rd Precinct stationhouse, where Lieutenant Heilig authorized a strip-searched of § 87(2)(b) (**Allegation J: Abuse of Authority – Strip-search,** § 87(2)(g) § 87(2)(b) was arrested as a result of this incident and he was charged with possession of a criminal weapon, resisting arrest, obstruction of governmental administration, and disorderly conduct; however, the Bronx District Attorney's office declined to prosecute the case against him.

The video surveillance footage obtained in relation to this incident did not depict the incident under investigation or the parties involved in this incident (**Board Review 01**).

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of § 87(2)(b) **Lieutenant**
Jeffrey Heilig stopped § 87(2)(b)
Allegation (B) Abuse of Authority: In front of § 87(2)(b) **Police Officer**
Tomor Berisha frisked § 87(2)(b)
Allegation (C) Abuse of Authority: In front of § 87(2)(b) **Police Officer**
John Echevarria searched § 87(2)(b)

It is undisputed that § 87(2)(b) was stopped and prohibited from freely walking away when the officers first approached him. It is also undisputed that during the interaction, § 87(2)(b) had his hands in his jacket pockets. It is also undisputed that § 87(2)(b) had a

cutting tool that weighed down his right jacket pocket. Finally, it is undisputed that § 87(2) spoke few words to the officers after they approached him.

During his CCRB statement, § 87(2)(b) stated that prior to being approached by the officers he did not stop to speak to anyone, make physical contact with anyone, and he was not carrying any bags (**Board Review 02**). He first saw officers when the officers' unmarked black sedan pulled up next to him while walking and PO Berisha exited. § 87(2)(b) had his hands in his jacket pockets while speaking with PO Berisha. § 87(2)(b) further stated that moments after PO Berisha approached and spoke to him, Lieutenant Heilig, PO Echevarria, and PO Echanique exited the unmarked vehicle, and "surrounded" him. PO Echanique and PO Berisha stood to either his left or right side, PO Echevarria stood behind him, and Lieutenant Heilig stood in front of him. PO Berisha and PO Echanique each grabbed one of § 87(2)(b) arms, and PO Echevarria placed his hands into § 87(2)(b) jacket pockets, pants pockets, and sweater pocket from behind; recovering a box cutter, which § 87(2)(b) uses for work, from his right jacket pocket. § 87(2)(b) acknowledged that while he was being searched an officer was attempting to speak to him, but he was focused on being searched and did not pay attention to the officer speaking to him.

During his CCRB statement, Lieutenant Heilig stated that around the time of the incident, there had been an increase in robberies and shootings on the northside of the 43rd Precinct (**Board Review 05**). While driving on East Tremont Avenue in the eastbound lane closest to the sidewalk, Lieutenant Heilig saw § 87(2)(b) walking and his attention was drawn to him because of the time of night, the fact that he was alone, and the recent robberies and shootings in the area. Lieutenant Heilig was operating the unmarked police vehicle, and he slowed the vehicle down to a "patrol speed," which he explained was significantly slower than normal driving speed, approximately 15 feet away from § 87(2)(b) so he could "observe" him better. When he did so, § 87(2)(b) slowed his walking pace and looked over at the unmarked police vehicle. § 87(2)(b) action of slowing down and looking led Lieutenant Heilig to believe that he was acting nervously. Shortly after slowing the car to a patrol speed, Lieutenant Heilig stopped the car entirely and all officers but himself exited and approached § 87(2)(b). The officers did not receive any radio calls regarding robberies or other crimes that affected the officers' decision to stop § 87(2)(b). There were not any additional factors that lead to his decision to stop § 87(2)(b).

Lieutenant Heilig exited the unmarked police vehicle when he felt reassured that § 87(2)(b) was not going to flee. § 87(2)(b) hands were initially at his side, but when an officer, whom he could not recall, asked about the weighted object in his right jacket pocket, § 87(2)(b) "almost immediately" placed his right hand into the pocket. An officer, once again who he could not recall, frisked the pocket. § 87(2)(b) response to the frisk was to attempt to move away from the officers, with his hand still in his pocket. While he did so, PO Echevarria placed his hand into the right jacket pocket and pulled a gravity knife out (**Board Review 04**).

PO Berisha provided a statement generally consistent with Lieutenant Heilig. PO Berisha stated that it was him and Lieutenant Heilig whose attention was first drawn to § 87(2)(b) (**Board Review 03**). Initially, PO Berisha stated that while in his vehicle he observed an object weighing down § 87(2)(b) right jacket pocket; however, he later stated that he was not sure how much of the pocket he observed before exiting the vehicle.

After approaching § 87(2)(b) PO Berisha observed that § 87(2)(b) right jacket was weighed down and § 87(2)(b) was blading his right side away from the officers. PO Berisha did not recall if he observed anything about the pocket that lead him to believe that there was a weapon in it. PO Berisha moved to § 87(2)(b) right side and he and other officers instructed § 87(2)(b) to take his hands out of his pockets, but § 87(2)(b) did not comply

or want to speak. Because § 87(2)(b) did not comply with instructions to take his hands out of his pockets, his hands were pulled out by the officers. Initially, PO Berisha stated that he took one of § 87(2)(b) hands out of the pocket by pulling it out, but later stated that an officer, who PO Berisha did not recall, did so. After § 87(2)(b) right hand was taken out of his right jacket pocket, PO Berisha frisked the weighted down pocket and felt a hard-metallic object that he believed to be a knife. PO Berisha did not recall how long the object was, but he was able to grip the entire object.

Initially, PO Berisha stated during the interview that he did not recall if he said anything aloud when he felt the object, but later said that he said aloud in sum and substance that the object was hard. PO Echevarria then placed his hand inside of § 87(2)(b) jacket pocket and he took out a gravity knife.

PO Echevarria provided a statement generally consistent with PO Berisha and Lieutenant Heilig. He was consistent with Lieutenant Heilig's account that § 87(2)(b) first had his hands at his side, but placed his right hand in the right pocket of his jacket after PO Berisha asked about the object weighing down the pocket. He differed from PO Berisha and Lieutenant Heilig because he did not acknowledge that PO Berisha frisked § 87(2)(b) and he stated that it was after the struggle with § 87(2)(b) that lead to him going to the ground (see case summary) and being handcuffed when he searched § 87(2)(b) and recovered the object in his pocket that he identified to be a gravity knife.

PO Echanique provided a statement generally consistent with PO Berisha and Lieutenant Heilig (**Board Review 06**). He also was consistent with PO Berisha's account that § 87(2)(b) had his hands in his pocket when the officers first approached. He did not acknowledge § 87(2)(b) being asked any question regarding what was in his pocket, a frisk occurring, or a search occurring while § 87(2)(b) was standing. After the struggle that lead to § 87(2)(b) going to the ground, he was frisked and searched and a gravity knife was recovered.

Given that § 87(2)(b) Lieutenant Heilig, and PO Berisha stated the cutting tool was recovered by PO Echevarria before § 87(2)(b) fell to the ground, the investigation is crediting that PO Echevarria searched § 87(2)(b) pocket before he fell to the ground.

Despite § 87(2)(b) having his hands in his pockets, none of the officers, including PO Berisha, stated that the bulge in § 87(2)(b) pocket caused them to fear for their safety. The officers offered the general possibility that the bulge could have been a weapon, but they did not provide any additional objective credible reason that lead to them fearing for their safety.

People v Gerard, 94 A.D.3d 592 (2012) (**Board Review 08**). Where police officers observed an individual in a crime-prone location during the very early hours of the morning, with a bulge coming from a weighed down jacket pocket, who changes in course and behavior after noticing the officers, blades their body away from the officers to shield the weighted down pocket, and speaks in an unorthodox manner, only the common-law right to inquiry is justifiable because the aforementioned factors in concert generate a founded suspicion that criminality is afoot and not reasonable suspicion that a crime has been, is being, or may be committed. The factors, standing alone, could be susceptible to an innocent interpretation.

People v. Santiago, 64 A.D.2d 355 (1978) (**Board Review 07**). A police officer, in the absence of any concrete indication of criminality, may approach a private citizen on the street for the purpose of requesting information if they have an articulable reason sufficient to justify the action. If founded suspicion is present, officers may interfere with a citizen to the extent necessary, short of a forcible seizure, to obtain an explanation.

Police officers who observe an individual with their hand in their pocket upon approach, may not constitutionally search the individual when neither officer feared for their safety. A sincere

good faith belief by police officers that a crime is about to be committed, without objective evidence of criminal activity, is insufficient to support the reasonable suspicion standard.

To determine the legality of police officer conduct in making a search and seizure, it must first be considered whether the action was justified in its inception.

People v. Stevenson, 7 A.D. 3d 820 (2004) (**Board Review 09**). A police officer who sees a bulge that is "readily susceptible of an innocent as well as a guilty explanation," does not indicate that the bulge had the outline of a weapon, and was unable to describe it in any further detail lacks the reasonable suspicion to "forcibly detain or frisk" an individual.

As established in the legal precedent above, § 87(2)(b) walking in a robbery-prone location at 12:50 a.m., exhibiting nervous behavior by stopping and looking at the officers' unmarked vehicle, having a bulge in his right jacket pocket, blading the right side of his body away from the officers, and being reluctant to speak to the officers, § 87(2)(g)

Because PO Berisha was unable to describe the bulge and could not recall if anything about the bulge indicated to him that it was a weapon, § 87(2)(g)

§ 87(2)(g) the only additional information that PO Echevarria may have received (according to PO Berisha) was that the object was hard, but he would not have received any details indicating that § 87(2)(b) had a weapon as opposed to an innocuous object such as a cell phone. Furthermore, no officers other than PO Berisha stated that they received any new information following the frisk. § 87(2)(g)

Allegation (D) Force: In front of § 87(2)(b) **Police Officer John**

Echevarria used a chokehold against § 87(2)(b)

Allegation (E) Force: In front of § 87(2)(b) **Police Officer John**

Echevarria restricted § 87(2)(b) **breathing.**

§ 87(2)(b) stated that when the officers surrounded him, two officers held onto each of his arms to prevent him from moving while a third officer standing behind him searched his pockets. He did not make any independent movements, attempt to pull his arms away, or attempt to flee. Approximately three seconds after the box cutter was removed from his pocket, PO Echevarria wrapped an arm around his neck. He described the contact as PO Echevarria's bicep touching one side of his neck and forearm touching other side, while PO Echevarria raised his elbow to lift § 87(2)(b) chin. This restricted § 87(2)(b) breathing, causing him to become light headed (**Board Review 02**).

PO Echevarria stated that when he approached the interaction, PO Berisha stood in front of § 87(2)(b) off to the right and PO Echanique stood in front of him off to the left. PO Echanique then stood behind § 87(2)(b) After § 87(2)(b) refused to take his hands out of his pockets, PO Berisha pulled his right hand out and held it while PO Echanique pulled his left hand out and held it. § 87(2)(b) response was to attempt to run forward past the officers. To assist the officers in stopping him, PO Echevarria grabbed § 87(2)(b) over his

shoulder at his right pectoral muscle and held onto § 87(2)(b) as he attempted to move forward. PO Echevarria did not observe any indication that his action of grabbing § 87(2)(b) placed force on his neck or restricted his breathing (**Board Review 05**).

PO Echanique provided a statement generally consistent with PO Echevarria. The one distinction between PO Echanique's statement and PO Echevarria's statement was PO Echanique observed PO Echevarria grab § 87(2)(b) at the back of his outermost garment while attempted to move away from the officers. Initially, PO Echanique indicated and confirmed that PO Echevarria grabbed § 87(2)(b) at the top middle of his jacket when he tried to walk away; however, when asked if PO Echevarria's action lead to § 87(2)(b) appearing to or expressing that he was not able to breathe, PO Echanique changed his answer and stated that PO Echevarria grabbed him on the back of his jacket at his right shoulder. He did not see PO Echevarria place his arms around § 87(2)(b) neck (**Board Review 06**).

Both PO Berisha and Lieutenant Heilig denied seeing PO Echevarria place his arm around § 87(2)(b) neck or take any action to place pressure around § 87(2)(b) neck. Additionally, they both stated that they did not observe or hear any indication that § 87(2)(b) breathing was restricted in any manner at any point during the incident (**Board Review 03**) (**Board Review 04**).

Despite PO Echevarria and PO Echanique each describing an action the could have potentially restricted § 87(2)(b) breathing, the investigation was unable to establish a preponderance that such acts did in fact restrict his breathing as no officers acknowledged § 87(2)(b) stating or exhibiting signs he could not breathe. Additionally, § 87(2)(b) described the action that restricted his breathing in a very specific manner and that action was denied by all the officers present. § 87(2)(g)

Allegation (F) Force: In front of § 87(2)(b) Lieutenant Jeffrey Heilig utilized a Taser against § 87(2)(b)

Allegation (I) Force: In front of § 87(2)(b) Lieutenant Jeffrey Heilig utilized a Taser against § 87(2)(b)

It is undisputed that prior to PO Berisha frisking § 87(2)(b) PO Berisha held his right arm, PO Echanique held his left arm, PO Echevarria made contact with him from behind, and Lieutenant Heilig stood in front of him, all to stop him from being able to move. Additionally, it is undisputed that § 87(2)(b) did not attempt to flee from the officers or try to intentionally strike the officers at any point during the interaction. Finally, it is undisputed that the officers surrounded and grabbed § 87(2)(b) less than one minute after exiting their unmarked police vehicle.

During his CCRB interview, § 87(2)(b) stated that after Lieutenant Heilig, PO Echevarria, and PO Echanique exited the unmarked police vehicle to join PO Berisha, they "surrounded him." PO Berisha held him at the right arm and PO Echanique held him at the left arm, each by placing one hand on his upper arm, the other hand around his wrist, and bringing each arm close to their body. He was then searched by PO Echevarria from behind and a box cutter was recovered from his right jacket pocket. Lieutenant Heilig began to tell § 87(2)(b) not to worry about the box cutter because it was not a big deal; however, § 87(2)(b) was placed in a chokehold seconds after the box cutter was recovered. Less than one minute after

being placed in the chokehold, he was released and Lieutenant Heilig lifted his shirt from behind and Tased him using a prong cartridge causing him to fall to the ground. § 87(2)(b) did not make any independent movements, pull his arms away, or attempt to flee from the officers before he fell to the ground.

After he fell to the ground, additional force was used against § 87(2)(b) (see below under **Allegations G and H**). After an unknown amount of time, he was Tased a second time. He did not know if the second Taser cycle was sent through the prongs already in his skin or if they were the result of a second Taser action. He did not recall if any commands were made to him while he was on the ground before he was Tased the second time (**Board Review 02**).

Lieutenant Heilig stated that § 87(2)(b) immediate response to being frisked was to attempt to move away from the officers by “swimming through” them like a “football player,” which he described as § 87(2)(b) torquing his upper body in a twisting motion to move past the officers and get their hands off him. He did not attempt to run from the officers. As § 87(2)(b) did this, Lieutenant Heilig instructed him to stop and calm down because the situation was not a “big deal.” After approximately 20 seconds of attempting to calm § 87(2)(b) down and § 87(2)(b) not being responsive, Lieutenant Heilig told him that he would be Tased if he did not calm down. After § 87(2)(b) did not calm down, Lieutenant Heilig lifted his shirt from behind him and Tased him from an arm’s length away.

Lieutenant Heilig stated that § 87(2)(b) went to the ground as the result of being Tased and was on his chest with his arms underneath his upper body. Lieutenant Heilig repeatedly instructed him to take his arms out from underneath him and place them behind his back for approximately five seconds, but § 87(2)(b) did not comply. Lieutenant Heilig then deployed a second Taser cycle through the same Taser prongs in § 87(2)(b) back because he did not know if § 87(2)(b) had any weapons under his body. After being Tased the second time, § 87(2)(b) placed his arms behind his back and he was handcuffed (**Board Review 04**).

PO Berisha stated that after the knife was recovered, he, PO Echevarria, and PO Echanique attempted to bring § 87(2)(b) hands behind his back, but § 87(2)(b) resisted by tensing his arms to stop them from placing his hands behind his back. He did not recall if § 87(2)(b) did anything other than tense his arms and he did not recall whether or not § 87(2)(b) attempted to move away from the officers. Lieutenant Heilig Tased § 87(2)(b) because he tensed his arms and would not allow the officers to place his arms behind his back (**Board Review 03**).

PO Echevarria provided a statement generally consistent with Lieutenant Heilig; however, his statement differed partially in that he stated § 87(2)(b) reacted, in the manner explained by Lieutenant Heilig, immediately after PO Berisha and PO Echanique grabbed § 87(2)(b) arms (**Board Review 05**).

PO Echanique provided a statement generally consistent with Lieutenant Heilig; however, also stated that § 87(2)(b) reacted, in the manner explained by Lieutenant Heilig, immediately after PO Berisha and PO Echanique grabbed § 87(2)(b) arms (**Board Review 06**).

§ 87(2)(g)

People v Gerard, 94 A.D.3d 592 (**Board Review 08**). An individual who is seized without the proper legal justification is entitled to engage in an “immediate, spontaneous, and proportionate” reaction.

Patrol Guide Procedure 221-08 (Board Review 10). Prior to using a Taser, an officer must consider the totality of the circumstances; some factors to consider are the severity of the circumstances/crime, actions taken by the subject, immediacy of the perceived threat or harm to officers and members of the public, whether the subject is actively resisting, whether the subject is attempting to evade arrest by flight, and the number of officers to civilians. Additionally, it is strictly prohibited for an officer to Tase an individual as a form of coercion.

While § 87(2)(b) exact reaction to the officers grabbing him is disputed, Lieutenant Heilig, PO Echevarria, and PO Echanique all stated that he immediately and spontaneously reacted by attempting to get the officers' hands off of him. § 87(2)(g)

Following this reaction, Lieutenant Heilig Tased § 87(2)(b) despite him being effectively restrained by three other officers who could have been instructed to take him into custody using a less forceful tactic such as taking him to the ground or placing him against the side of a parked vehicle. Given that § 87(2)(b) did not display active resistance or aggression and only offered a spontaneous and proportional reaction to his alleged seizure. § 87(2)(g)

Regarding **Allegation I**, Lieutenant Heilig's reason for Tasing § 87(2)(b) a second time was to get § 87(2)(b) to place his arms behind his back after he refused to do so for approximately five seconds. Lieutenant Heilig also added that he did not know whether § 87(2)(b) had a weapon underneath him, but he provided no reason for suspecting this beyond a general suspicion of the possibility. § 87(2)(g)

Allegation (G) Force: In front of § 87(2)(b) officers used physical force against § 87(2)(b)

Allegation (H) Force: In front of § 87(2)(b) officers struck § 87(2)(b) with ASPs.

During his CCRB statement, § 87(2)(b) alleged that between being Tased the first and second time, he was kicked all over his body and struck with ASPs at his legs by the officers. He was unable to estimate how many times he was kicked and struck or how long he was on the ground. He was unable to identify which officers took those actions because after the strikes began he turned his face to the ground, covered his head, and compacted his body. He remained that way until he was Tased the second time (**Board Review 03**).

Neither PO Berisha, Lieutenant Heilig, PO Echevarria, or PO Echanique acknowledged kicking § 87(2)(b) or striking him with an asp or another object, or seeing any other officer(s) take those actions. All officers stated that they do not carry ASPs (**Board Review 03**) (**Board Review 04**) (**Board Review 05**) (**Board Review 06**).

The investigation obtained the medical records from § 87(2)(b). The records do not note any injuries to § 87(2)(b) consistent with the alleged strikes. All statements provided by § 87(2)(b) to the medical staff were about the Tasing and the Taser prongs. § 87(2)(g) § 87(2)(b) was unable to provide any identifying information for the officer(s) that allegedly kicked him and struck him with an asp, that none of the officers

acknowledged kicking § 87(2)(b) or seeing any other officer do so, and the absence of any video footage or independent witnesses to assist in determining the identity of the officers. § 87(2)(g)

Allegation (J) Abuse of Authority: At the 43rd Precinct stationhouse, Lieutenant Jeffrey Heilig strip-searched § 87(2)(b)

§ 87(2)(b) alleged that after arriving at the stationhouse and being placed in a holding cell, Lieutenant Heilig and PO Berisha entered the holding cell area and instructed him to take all articles of clothing off one by one. As he did so, the officers “shook” each article of clothing. This happened until he was he was completely nude. At that time, he was instructed to lift his scrotum and spread his buttocks (**Board Review 02**).

Lieutenant Heilig stated that he authorized a strip search of § 87(2)(b) based on his own observations and decision making. He authorized the strip-search because he was a former Street Narcotics Unit officer, and in his training and experience, for an individual to react to the officers the way § 87(2)(b) did for only having a knife “did not seem right.” He believed that in order for someone to do that, they must have narcotics concealed (**Board Review 04**).

PO Berisha confirmed that he and Lieutenant Heilig were present for the strip-search. Lieutenant Heilig informed him of his justification for authorizing the strip-search; however, PO Berisha did not recall what that reasoning was (**Board Review 03**).

Neither PO Echevarria nor PO Echanique were aware that § 87(2)(b) was strip-searched (**Board Review 05**) (**Board Review 06**).

Patrol Guide Procedure 208-05 (Board Review 11). A strip-search is a search where an individual’s undergarments and/or private parts are exposed. A supervisor will authorize a strip-search only when an arresting officer has articulated objective reasoning that an individual is concealing evidence, contraband, or a weapon.

Lieutenant Heilig did not provide an objective observation or indication for authorizing the strip-search of § 87(2)(b) to show that he or any other officer believed that § 87(2)(b) had contraband, weapons, or evidence concealed on his person. Instead, he provided a subjective hunch that was influenced by “past experiences” that were unrelated to his interaction with § 87(2)(b) during the incident under investigation. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 12**).
- PO Berisha has been a member of service for five years and has been a subject in one CCRB complaint and one allegation, which is currently still under investigation. § 87(2)(g)
- Lieutenant Heilig has been a member of service for 12 years and has been a subject in five CCRB complaints and 12 allegations, none of which were substantiated. § 87(2)(g)
- PO Echevarria has been a member of service for five years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)

- § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of August 27, 2018, § 87(2)(b) [REDACTED] has not filed a Notice of Claim with the NYC Comptroller's office (**Board Review 14**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad No.: **12**

Investigator:

Signature	Print Title & Name	Date
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Squad Leader:

Signature	Print Title & Name	Date
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Reviewer:

Signature	Print Title & Name	Date
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